

November 5, 2002

Ms. Magalie Roman Salas
Secretary, Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, D.C. 20554

Ex Parte Presentation

RE: WC Docket 02-306, Application by SBC Communications Inc., Pacific Bell Telephone Company, and Southwestern Bell Communications Services, Inc. for Provision of In-Region, InterLATA Services in California

Dear Ms. Salas:

Pursuant to the requirements of Sections 1.1200 et seq. of the Commission's rules, you are hereby notified on behalf of XO Communications, Inc and XO California, Inc. that Christopher McKee, Director, Regulatory Affairs, Karen Potkul, Vice President, External Affairs, Melissa Waksman, Director, Regulatory Affairs, Esther Northrup, Regulatory Manager and the undersigned met with Rhonda Lien, Aaron Goldschmidt, Renee' Crittendon, John Stanley, Jack Yachbes, Pam Arluk, Katie Rangos and Daniel Shiman of the Wireline Competition Bureau; Susan German of the Enforcement Bureau; Sean O'More of the Consumer and Governmental Affairs Bureau; and Joanne Wall of the Office of the General Counsel.

XO representatives met with Commission staff on November 4 to discuss issues relating to the pending application by SBC Communications Inc., Pacific Bell Telephone Company, and Southwestern Bell Communications Services, Inc. for Provision of In-Region, InterLATA Services in California. At this meeting, XO reiterated its positions presented to the Commission in its comments filed in WC Docket 02-306 on October 9, 2002. A copy of XO's written presentation at the meeting is attached.

Should there be any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

Cathleen Massey
Vice President, External Affairs

Enc.

cc: Sean O'More, Consumer & Governmental Affairs Bureau
Rhonda Lien, Wireline Competition Bureau
Joanne Wall, Office of the General Counsel
Aaron Goldschmidt, Wireline Competition Bureau
Renee' Crittendon, Wireline Competition Bureau
John Stanley, Wireline Competition Bureau
Jack Yachbes, Wireline Competition Bureau
Pam Arluk, Wireline Competition Bureau
Susan German, Enforcement Bureau
Katie Rangos, Wireline Competition Bureau
Daniel Shiman, Wireline Competition Bureau

XO California, Inc. WC Docket No. 02-306

November 4, 2002



SBC Pacific's DS1 and DS3 Rates Are Not TELRIC-Compliant



SBC Pacific's DS3 UNE Loop Rates

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- Have never been set by the CPUC
- Are the highest in the United States
- Are more than 3 times higher than the rate that would result from the filing that SBC Pacific made with the CPUC on October 18, 2002. Based on Pacific's filing, the DS3 UNE loop rate would be \$573.20 instead of the current rate of \$1837.18
- Are almost 7 times higher than the AT&T and WCOM HM 5.3 DS3 costs of \$268.76
- Are 2.75 times higher than Texas (urban area) rates, which is SBC's own "benchmark" state
- Are higher than retail access rates with term and volume discounts

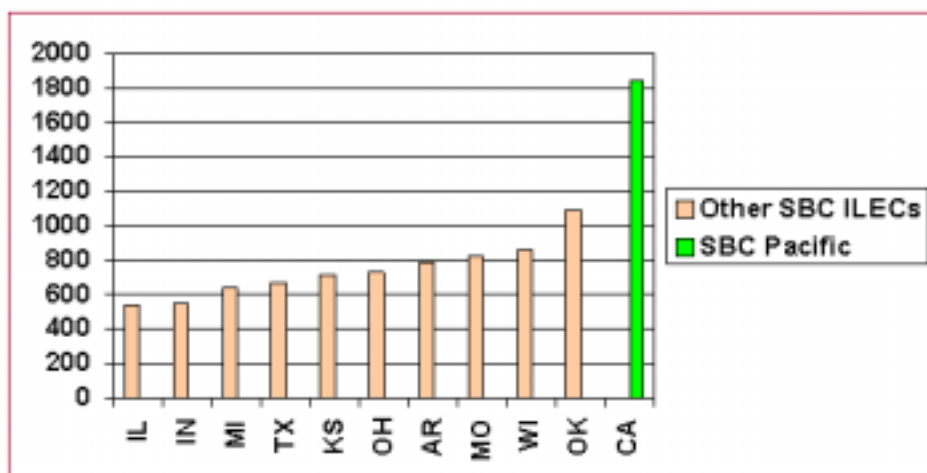


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SBC DS3 UNE Loop Rates

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SBC Pacific's DS1 UNE Loop Rates

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- Are more than 4 times higher than the cost of \$20.83 reported by HM 5.3
- Are higher than all but three other SBC states
- Are, in each zone, 1.2 to 1.55 times higher than Texas – SBC's own "benchmark" state
- 1.6 to 2 times higher than SBC Ameritech rates
- Are higher than retail access rates with term and volume discounts

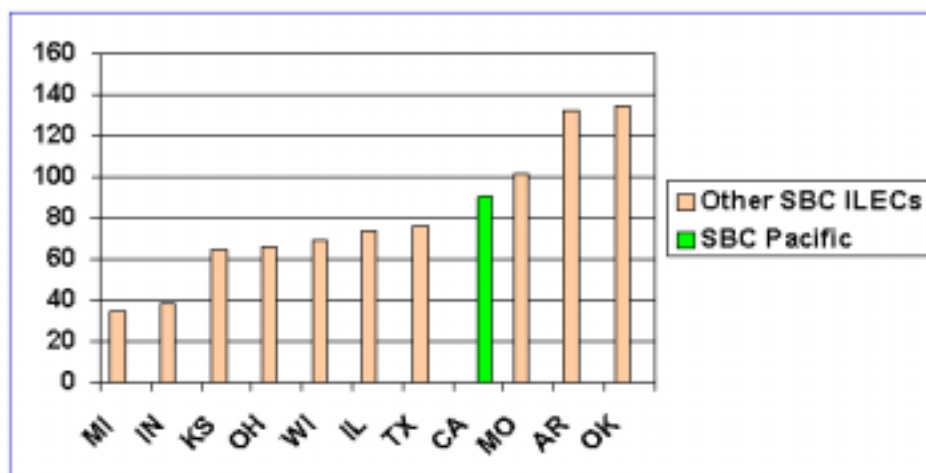


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SBC DS1 UNE Loop Rates

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A "Retroactive True-up" Is an Inadequate Remedy

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- Excessive rates will remain in effect for at least another year
- Excessive rates are already 3-4 years old
- Excessive rates are based on 8-10 year old cost data
- Excessive rates drain CLEC cash and stymie competition



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SBC Pacific's Provisioning, Maintenance and Repair Performance Is Discriminatory

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SBC Pacific's Performance Failures

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- SBC Pacific's own performance measure data for May through August 2002 show its failure to meet the required standard for critical UNEs.
- SBC Pacific's promises of future compliance do not demonstrate present compliance with Section 271.
- SBC Pacific's poor DS1 performance is customer affecting
- DS1 performance failures cover practically the end-to-end process
 - Ordering (PM 5)
 - Installation (PM 11)
 - Maintenance & Repair (PMs 16, 20 and 21)



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SBC Pacific Provisioning Performance Failures

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- More CLEC DS1 orders placed in jeopardy (PM 5) in June, July and August
- More CLEC DS1 North orders' due dates missed (PM 11) in June and July



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SBC Pacific Maintenance and Repair Performance Failures

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- Higher percentage of CLEC DS1 customers did not have service restored within ETA (PM 20) in May, June and August
- Longer interruptions for CLEC DS1 customers (PM 21) in May, June, July and August
- CLEC 2/4 wire customers higher frequency of repeat troubles (PM 23) in May, June and August



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Pacific's Plan To Improve Its Performance To Date Has Been Ineffective

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- HANSEL testing and re-training have not solved higher percentage of DS1 troubles within first 30 days (PM 16)
- Prioritizing CLEC DS1 trouble tickets has not helped Pacific meet ETA (PM 20) or shorten time customers are out of service (PM 21)
- FIT process and re-training have not reduced frequency of repeat troubles for CLEC 2/4 wire customers (PM 23)



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SBC Pacific's Poor DS1 Performance is Customer Affecting

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- DS1 Performance Failures cover practically the end-to-end process
 - Ordering (PM 5)
 - Installation (PM 11)
 - Maintenance & Repair (PMs 16, 20 and 21)



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SBC Pacific's Performance Incentive Plan Is Not Working Today And Won't Prevent Backsliding

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- The California Plan Results in Payments That Are So Nominal That They Amount to Little More Than a Cost of Doing Business for SBC.
- Incentive Payments Have Been in Effect Since April 2002, Yet SBC Pacific Is Failing to Meet Numerous Critical Performance Measures



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SBC Pacific's Performance Incentive Plan Is Inadequate

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- The California PIP Creates a Perverse Incentive for SBC Pacific to Benefit From Its Poor Performance
- The California PIP Limits CLEC Payments in a Particular Month to the Amount Billed by SBC Pacific to the CLEC in That Month. Incentive Payment Amounts Over That Limit Are Paid to *Pacific's Retail Customers*.



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Granting SBC Pacific's Section 271 Application Would Not Be In The Public Interest

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The CPUC Could Not Find SBC Pacific's Entry Was In the Public Interest

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- Significant evidence on the record filed by parties and the California Public Utilities Commission ("CPUC") compels a finding that SBC Pacific's entry will not be consistent with the public interest.
- The CPUC found that SBC Pacific *had failed to satisfy 3 of the 4* California statutory requirements (Pub. Util. Section 709.2) necessary to establish that its long distance entry is in the public interest.



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The Local Telecommunications Market in California Is Not Fully and Irreversibly Open to Competition

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- The CPUC *could not find* that the local telecommunications markets are fully open to competition. The CPUC found instead that there is "technical, *not actual*, local telephone competition." CPUC D.02-09-050 at 268.
- The CPUC's June 2002 Report on Status of Telecommunications Competition in California ("CPUC Competition Report") concluded that ILECs such as Pacific Bell hold dominant positions both statewide and nationwide, and that "CLEC market entry as measured by lines is also slower in California than in the U.S."
- As President Lynch testified before the California Senate, "true competition remains an elusive goal for many telecommunications services in California."



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